

**AMENDMENTS TO THE DRAWINGS**

Applicant adds Figure 12 as requested by the Examiner.

Attachment: 1 New Sheet

## **REMARKS**

### **I. Summary of Office Action**

Claims 1, 6, 9, 20-21, and 52-64 are pending in this application. Claim 1 is currently amended. No new matter has been added. Claims 6, 9, and 52-59 were previously presented. Claims 20-21 and 60-64 were withdrawn by the Examiner.

The drawings are objected to under 37 C.F.R. § 1.83(a) as not showing every feature of the invention specified in the claims. Claims 1, 6, 9, 52-54, and 57 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 6,263,528 to Husler (hereinafter "Husler"). Claims 55 and 56 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Husler in view of U.S. Pat. No. 6,295,676 to Warner (hereinafter "Warner") or U.S. Pat. No. 4,429,427 to Sklar (hereinafter "Sklar").

### **II. Applicant's Reply**

Applicant notes with appreciation the indication of allowable subject matter in claims 58-59. Applicant expressly reserves the right to rewrite any one or more of claims 58-59 in independent form if its respective base claim ultimately is not allowed. Applicant traverses the rejections and amends claim 1 to more particularly define applicant's claimed invention. The aforementioned amendments are fully supported by the application as filed and do not add new matter. Applicant also submits new Figure 12 in accordance with 37 C.F.R. § 1.121(d) and amends the specification to reflect the new figure. New Figure 12 and the amendments to the specification are fully supported by the application as filed and do not add new matter. Specifically, the new figure and amendments are at least supported at page 9, lines 3-5 of the originally filed specification. Accordingly, applicant respectfully requests that the objections to the drawings be withdrawn.

#### **A. The Rejections Under 35 U.S.C. §102(b)**

Amended independent claim 1 is directed to an adjustable bed mattress having a substantially rectangular sleeping surface and a pivoting member attached to an exterior portion of a

major surface of the mattress. The pivoting member is configured as a tubular sleeve that extends outwardly from the major surface and is adapted to receive an attachment bar for attachment to an adjustable bed frame. The mattress is configured to pivot about an axis parallel to the pivoting member.

According to the MPEP, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference" (MPEP 2131). Husler fails to teach each and every element of the amended independent and dependent claims. Specifically, Husler fails to teach that "the mattress is configured to pivot about an axis parallel to the pivoting member," as recited in claim 1.

Husler relates to a device for lying or sitting on with a mattress, a lath grid, and at least two springy beams 5 within sheaths 51, oriented longitudinally to the device. The lath grid contains laths arranged in a transverse direction (Husler, abstract) and hence perpendicular to beams 5 and sheaths 51. Husler discloses, in particular, that the lath grid is "flexible in the direction of its length" (*id.*, col. 1 lines 5-6), but does not teach or suggest that the lath grid is flexible in a transverse direction (i.e., along the length of a lath or about an axis parallel to beams 5 or sheaths 51). Hence, Husler does not teach a mattress "configured to pivot about an axis parallel to the pivoting member," as recited in independent claim 1.

For at least this reason, applicant requests reconsideration and withdrawal of the rejection of claim 1. Claims 6, 9, 52-54, and 57 depend from claim 1 and add further limitations thereto. Therefore, applicant requests reconsideration and withdrawal of the rejections of these claims, as well.

B. The Rejections Under 35 U.S.C. §103(a)

Claims 55 and 56 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Husler in view of Warner or Sklar. Claims 55 and 56 each depend from and add further limitations to independent claim 1.

As mentioned above, Husler fails to teach a mattress "configured to pivot about an axis parallel to the pivoting member," as recited in claim 1. Warner and Sklar, alone or in combination, fail to make up for the lack of teaching in Husler. Warner is directed to a mattress construction having a main sleep area with honeycomb nested rows of wire springs, and a perimeter trim formed from pocketed wire springs. Sklar is directed to a spring reinforced seat cushion having a main body panel of foam material and a pair of oppositely disposed seat faces. Hence, Husler, Warner and Sklar, alone or in combination, do not teach or suggest an a mattress configured to pivot about an axis parallel to a pivoting member, as recited in independent claim 1.

For at least the above reasons, applicant respectfully request reconsideration and withdrawal of the 35 U.S.C. § 103(a) rejections of claims 55 and 56, each of which depend from and add further limitations to claim 1.

### **CONCLUSION**

In view of the above amendment, Applicant believes the pending application is in condition for allowance.

We believe that we have appropriately provided for fees due in connection with this submission. However, if there are any other fees due in connection with the filing of this Response, please charge our Deposit Account No. 18-1945, under Order No. SMCY-P01-081 from which the undersigned is authorized to draw.

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Respectfully submitted,

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